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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/739,718	12/18/2000	Jim Hugunin	5350 / 54771	5067

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EXAMINER

ROSENTHAL, DANIELLE S

ART UNIT	PAPER NUMBER
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3644

DATE MAILED: 01/11/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/739,718

Applicant(s)

HUGUNIN, JIM

Examiner

Danielle S. Rosenthal

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 18-25 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 18-25 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 December 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). ____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____ 6) ☐ Other:

DETAILED ACTION

Drawings

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference sign(s) not mentioned in the description: "LOL" in Figs. 6 & 7. It is unclear what "LOL" refers to since it is not mentioned in the disclosure yet referenced in the drawings. A proposed drawing correction, corrected drawings, or amendment to the specification to add the reference sign(s) in the description, are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Specification

2. The disclosure is objected to because of the following informalities: page 7, lines 14-15, reference character "45" is denoted as both a means for fastening and an aperture; page 11, lines 3-4, reference character "245" is denoted as both a wire and a body. Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

4. Claims 18-21 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by U.S. Pat. No. 6,061,947 to Mooers. Referring to claim 18, Mooers discloses a fishing lure (see Fig. 4 and claims 1i, 13, and 14) with a body portion and at least one cavity formed in the body portion (Fig. 4 and (34) and (36)). There is a scent receiving element (40) in the cavity.

Referring to claim 19 and the aforementioned discussion on claim 18, Mooers discloses a lure wherein the body portion is a plane (46) and the scent receiving element is embedded within the plane (col. 6, lines 54-67).

Referring to claim 20 and the aforementioned discussion on claim 18, Mooers discloses a fishing lure wherein the body portion defines two sides (right and left sides of 46) and the scent element is accessible from both sides (Fig. 4)

Referring to claim 21 and the aforementioned discussion on claim 18, Mooers discloses a fishing lure with a receptacle shaped in an eye for receiving and retaining the scent element (40). The detachable end of the receptacle (38) acts to secure the scent element in the cavity.

5. Claims 23 and 24 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by U.S. Pat. No. 5,170,579 to Hollinger. Referring to claim 23, Hollinger discloses a fishing lure having an end (see Figs. 5 & 7) wherein the bottom of the lure is defined as an end. The end defines a perimeter and a cavity portion (64) is attached to

the end and conforms to the perimeter of the end of the body. The cavity is designed to receive a scent (claim 3).

Referring to claim 24, the scent receiving element is designed not to interfere with the motion of the lure since the cavity does not disrupt the streamlined shape of the lure and hence will not affect the motion of the lure.

6. Claim 25 is rejected under 35 U.S.C. 102(e) as being clearly anticipated by U.S. Pat. No. 6,061,947 to Mooers. Mooers discloses a method of scenting a fishing lure with a body that comprises the steps of providing at least one cavity in the body portion (see Fig. 4, the cavity within the body adapted to receive portion 38), locating a scent receiving element in the cavity (40), using a scent element such that there is no interference with the motion of the lure since the eye-cavity is shaped so as not to interfere with the streamlined shape of the lure, providing a means of attaching the eye or cavity to the lure (col. 6, lines 54-67), and having a means for detaching the scent receiving portion be detachable from the lure without altering the (Fig. 4 and claims 1 & 14).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over U. S. Pat. No. 6,061,947 to Mooers. Referring to the aforementioned discussion on claim 18, Mooers discloses the claimed invention except for including a plurality of cavities. It would have been obvious to one having ordinary skill in the art at the time the invention was made to include more than one cavity since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Pat. No. 6,298,595 to Friedlob shows a related lure with a scent receiving element attached at the end.

U.S. Pat. No. 3,163,958 to Quinn discloses a related lure with a scent receiving element attached to the lure.

U.S. Pat. No. 5,113,606 to Rinker discloses a related lure with a scent receiving element.

U.S. Pat. No. 5,588,246 to Hill discloses a related lure with detachable sponge like scent elements.

U.S. Pat. No. 4,133,134 to Cheng discloses a related lure with a scent receiving element.

U.S. Pat. No. 5,517,781 to Paoletta, Jr. discloses a related scent releasing worm lure.

U.S. Pat. No. 5,517,782 to Link et al. disclose a related lure with a scent receiving cavity.

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U.S. Pat. No. 6,041,538 to Roemer discloses a related lure with a scent receiving element.

U.S. Pat. No. 4,962,609 to Walker discloses a related lure with a scent receiving element.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Danielle S. Rosenthal whose telephone number is (703) 305-2765. The examiner can normally be reached on M-Th & every other F, 8:00am-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Jordan can be reached on (703) 308-2484. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7687 for regular communications and (703) 305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.


CHARLES T. JORDAN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3000

Danielle S. Rosenthal
Examiner
Art Unit 3644

dsr
January 8, 2002